Court No. 3

Criminal Revision No. 86/2003

Om Prakash Chaudhary .....Revisionist.

Versus

Smt. Meenakshi Chaudhary .... Respondent.

Hon'ble Irshad Hussain, J.

This is a revision against the order dated 3.6.2003 passed by Principal Judge, Family Court Dehradun, granting interim maintenance allowance at the rate of Rs. 3000/- per month for the respondent-wife who had filed a petition U/s 125 Cr.P.C.

Heard learned counsel for the parties. Learned counsel for the revisionist submitted that the revisionist has got no source of income so as to pay the huge amount of Rs. 3000/- per month as maintenance allowance and the learned Judge passed the order which is not based on any material regarding the income of the revisionist. According to the learned counsel the order is based on surmises and conjectures without any element of objective assessment of the income of the revisionist-husband. It need to be mentioned that the wife in her application in paragraph-8 claimed that the husband was carrying a boutique (shop) and was also engaged in publication work at Bhiwani district in the state of Haryana and his total income is about Rs.30,000/- per month. No documentary evidence was produced in support of the allegation about the income and considering this there is force in the argument that the income of the revisionist-husband has wrongly been assessed at Rs. 10,000/- per month.

In the written statement the revisionist disclosed his salary as Rs. 1250/- per month only which in the present circumstances cannot be said to be a correct statement of fact. Even a daily wage worker earns more than that and the husband being able bodied person is expected to earn at-least a wage which is being earned by a daily wage worker. Considering this aspect of the matter and taking into account that the wife-respondent is

living separately the amount of interim maintenance may be suitably modified.

Considering the facts and circumstances of the case a sum of Rs. 2000/- per month is fixed as interim maintenance allowance. The revision partly succeed and is allowed accordingly. The revisionist-husband shall pay the interim maintenance at the rate of Rs. 2000/- (two thousand) per month. With this the revision is finally disposed of.

The learned Principal Judge, Family Court is directed to decide the petition U/S 125 Cr.P.C. finally at the earliest, preferably within a period of 2 months from the date of receipt of the copy of this order.

(Irshad Hussain, J.)

Dated 26-8-2003

ISB